

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**CENTRAL VALLEY AG COOPERATIVE,
and CENTRAL VALLEY AG
COOPERATIVE HEALTH CARE PLAN,**

Plaintiffs,

vs.

**DANIEL K. LEONARD, SUSAN
LEONARD, THE BENEFIT GROUP, INC.,
ANASAZI MEDICAL PAYMENT
SOLUTIONS, INC., CLAIMS DELEGATE
SERVICES, LLC, LINUS G. HUMPAL,
and GMS BENEFITS, INC.,**

Defendants.

8:17CV379

ORDER

This matter is before the Court on the Findings and Recommendation, ECF No. 58, of United States Magistrate Judge Cheryl R. Zwart, recommending that Plaintiffs' Motion to Amend, ECF No. 43, be granted in part and denied in part; and the Defendants' Motions to Dismiss, ECF Nos. 36, 38, 40, be denied as moot. No party has objected to the Findings and Recommendation. The Court has conducted a thorough review of the proposed pleadings, the parties arguments, and the record as a whole. The Court concludes that the Findings and Recommendation are well-reasoned and will be adopted in their entirety. Accordingly,

IT IS ORDERED:

1. The Findings and Recommendation, ECF No. 58, are adopted in their entirety;

2. Plaintiffs' Motion to Amend, ECF No. 43, is granted in part and denied in part;
3. On or before May 7, 2018, Plaintiff Central Valley Ag Cooperative is permitted to file its proposed Third Amended Complaint, provided it first amends the proposed complaint as follows:
 - a. To identify Central Valley Ag Cooperative as the sole plaintiff, and
 - b. To remove:
 - i. All claims against all Defendants asserting a claim for relief under RICO (Claim 11);
 - ii. All ERISA claims against Linus G. Humpal in his personal capacity (Claim 4);
 - iii. The ERISA claim against the Defendants Daniel K. Leonard and Susan Leonard for falsely stating the 2016 Plan was ACA-compliant (Claim 5, ¶ 165); and
 - iv. The stand-alone claims for attorney fees and injunctive relief (Claims 10 and 12);
4. Defendants' Motions to Dismiss, ECF Nos. 36, 38, and 40, are denied as moot, without prejudice to reassertion.

Dated this 1st day of May, 2018.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge